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SUBJECT: UNGA: ANNUAL REPORT OF THE ICJ IN THE UN 63RD
GENERAL ASSEMBLY

REF: 07 USUNNEWYORK 1008

¶1. SUMMARY: President Rosalyn Higgins presented the annual Report of the International Court of Justice (ICJ) (A/63/4) to the General Assembly on October 30. She gave an overview of action on key cases during what she called the ICJ's "most productive year." The Court delivered four substantive judgments and one order on a request for the indication of provisional measures. Higgins also detailed the court's financial and staffing needs and called for the GA to provide funds to enable the ICJ to perform with maximum efficiency. During the debate, many countries expressed support for the work of the ICJ, calling in general terms for adequate resources for the Court. Paragraph 7 lists all the countries that gave interventions. END SUMMARY.

UPDATE ON THE WORK OF THE ICJ

¶2. During the period from August 1, 2007 to July 31, 2008 the ICJ handed down four substantive judgments. The Court also ruled on Mexico's request for the indication of provisional measures in the case, "Avena and other Mexican Nationals (Mexico v. United States of America)." The ICJ stated that the United States should take all measures necessary to ensure that the five Mexican nationals are "not executed pending judgment on the Request for interpretation."

Hearings have been held in the case: "Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)." Since the close of the year, the court has indicated provisional measures in a pending case between Georgia and Russia, begun hearings in two additional cases, and received five new cases. There are currently 14 cases on the docket.

¶3. Judge Higgins reported that three of the cases decided last year involved sovereignty over maritime features. On the case, "Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)," the ICJ found that sovereignty over the islands concerned belonged to Honduras. Furthermore, the Court found that there was no established boundary for the maritime areas and determined the delimitation itself (for a description of the boundaries see paragraph 132 of the Report). In the case, "Territorial and Maritime Dispute (Nicaragua v. Colombia)", the ICJ held that the 1928 Treaty signed by the parties outlined sovereignty over three of the islands under the dispute. However, the Court determined that the 1928 Treaty did not govern sovereignty over the rest of the San Andres Archipelago and that the Court had jurisdiction, under the Pact of Bogot, to adjudicate on the dispute. The ICJ has set time limits for the parties to file written pleadings. Finally, in "Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)," the ICJ awarded sovereignty over Pedra Branca/Pulau Batu Puteh to Singapore. However, the Court found that Malaysia retained sovereignty over Middle Rocks and that the South Ledge belonged to the State in whose territorial waters it lies.

¶4. On the case, "Certain Questions of Mutual Assistance in

Criminal Matters (Djibouti v. France)," Higgins noted that this was the Court's first occasion to pronounce on a dispute brought in an application based on Article 38, paragraph 5 of the Rules of Court. That paragraph outlines the case where a State proposes to found the Court's jurisdiction upon consent yet to be given or manifested by the State, against which the application is made. France did give consent in a letter to the Court; however, the Parties disagreed on what jurisdiction exactly France had agreed to. The ICJ was able to determine the extent of the mutual consent between France and Djibouti and resolve the problem. In the actual consideration of the case, the ICJ concluded that France had failed to comply with its international obligation under Article 17 of the 1986 Convention to provide reasons for its refusal to execute the letter rogatory.

CALL FOR STAFF AND FUNDING FOR THE ICJ

¶15. Higgins reiterated the need for law clerks; pointing out that only three of the nine positions requested last year (Ref A) had been approved. She also requested funds to replace and modernize conference systems and facilitate data sharing. Other needs mentioned were funding for ad hoc judges and a mechanism to adjust pensions for judges to cost-of-living increases. Judge Higgins pointed out that in the 1999 Botswana/Namibia case the parties jointly agreed not to appoint a judge ad hoc each. Higgins expressed the hope that other States would consider the Botswana/Namibia model in instances where neither country has a national on the bench.

RESPONSE BY MEMBER STATES

¶16. Many delegations commended the ICJ for increasing its efficiency in order to clear some of the backlog of cases and conclude a productive year. Speakers expressed support for the work of the ICJ. Canada (speaking also for Australia and New Zealand) and Japan urged wider acceptance of compulsory jurisdiction. Several African delegations also urged Member States to recognize the ICJ's jurisdiction. India supported Higgins call for approval of six additional law clerks and for modernization of systems. Many States, including, Canada (Australia and New Zealand), Ghana, Philippines, Peru, Kenya, and Singapore, argued in general terms that the United Nations should provide the ICJ with the resources it needed to perform efficiently.

¶17. The following countries made interventions on the Report of the ICJ: Canada (also on behalf of Australia and New Zealand), Philippines, Peru, India, Egypt, Pakistan, Democratic Republic of the Congo (DRC), Japan, Ghana, Algeria, Romania, Nigeria, Kenya, Swaziland, Senegal, El Salvador, Singapore, Portugal, Cameroon, Mexico, and Sudan. Khalilzad